

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-7356-2019 (O&M)
Date of Decision: April 24, 2024

Tarsem Singh
...Petitioner

Versus

Karamjit Singh and others
...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Abhishek Dhull, Advocate
for the petitioner.

Mr.Akashdeep Singh, Advocate
for respondent No.1.

Mr.Ravish Bansal, Advocate
for respondents No.2 and 3.

Mr.Karamjit Singh, Advocate
for respondent No.4.

ARCHANA PURI, J.

Challenge in the present petition is to the order dated 13.09.2019 passed by learned Addl. Civil Judge (Sr. Divn.), whereby, an application under Order 6 Rule 17 CPC, filed at the instance of the petitioner along with respondents No.6 to 10, for seeking amendment of the plaint, was dismissed.

The facts, as culled from the paperbook, are as follows:-

That, initially, the petitioner-plaintiff together with respondents No.6 to 10 had filed a suit against contesting respondents for seeking recovery of

Rs.6,00,000/-, on account of destruction of the huts (jhuggis of the plaintiffs were set on fire intentionally by the defendants) and also filed a suit for possession of the land of village New Tehna, which was given by Deputy Commissioner, Faridkot, to the homeless persons, from which, the plaintiffs were dispossessed.

When the case was at the stage of recording of the plaintiffs' evidence, plaintiffs had filed an application under Order 6 Rule 17 read with Section 151 CPC, for seeking amendment of the plaint, on the following grounds:-

- a) *To implead "Kirna Mahant resident of Village Chahal, District Faridkot, now residing in Balmiki Basti, Village New Tehna, Tehsil & District Faridkot" as defendant No. 6 and also to add para No.15-B, "That the defendant No. 6 has taken illegal possession of area of school during the pendency of suit and has started some Gaushala and he is also liable to deliver possession back to the plaintiff No.1 who is also requested to be impleaded in this application."*
- b) *To implead "State, through District Collector, Faridkot" as defendant No. 5.*
- c) *To implead also as plaintiff No. 7 "Amar Shaheed Baba Jiwan Singh Sewa Vikas Society, Balmeek Basti, New Tehna, District Faridkot, through its present President Tarsem Singh (plaintiff No.1)".*
- d) *To also amend the head note of the plaint by adding after word "Village New Tehna" as shown in scaled site plan dated 08.11.2014 prepared by Sh. Harpreet Singh Pawar as dotted in Red and shown as Gaushala illegal possession being part of Khasra. No.274 (18-5), situated within the revenue estate of Village Tehna".*
- e) *To also add in the end of para No.1 of the plaint as under:-*
"The site plan of the Abadi Balmeek Basti, New Tehna is

attached herewith, which is consisted of Khasra No.274 (18-5), situated within the revenue estate of Village Tehna."

f) To also add in the end of para No. 12 of the plaint as under:-

"In the said case, it was squarely proved that the accused of the said case had illegally and unlawfully burnt the houses of the plaintiffs and others being occupants of the land given by the authorities at the time of displacing them from Kapoor Basti."

g) To add para No.15-A of the plaint after para No.15 as under:-

"15-A. That in the manner and way after taking law into their own hands, the defendants No. 1 to 4 and others burnt the Jhuggis of the plaintiffs and others who are citizen of India, whereas the household was also burnt, by which the plaintiffs suffered atleast loss of Rs. 6 Lacs i.e. Rs.1 Lac each owing to fault and illegal act of the defendants. There being the other defendants Baljinder Singh the then Patwari, Ram Singh the then Tehsildar and Darshan Singh the then SHO being Government Officials, the State is also vicariously liable for their act along with act of other officials, who also took part i.e. Om Parkash Kanungo, Gurjant Singh ASI P.S. Sadar Faridkot along with other defendants No.2 to 4 etc."

Reply to the aforesaid application was filed, thereby resisting the claim for the amendment of the plaint.

After hearing learned counsel for the parties, the application was dismissed vide impugned order dated 13.09.2019.

Feeling aggrieved by the aforesaid order, the petitioner-plaintiff had filed the present revision petition.

In pursuance of the notice issued, respondents had made

appearance through counsel.

Learned counsel for the parties heard.

Throughout the arguments, learned counsel for the petitioner has emphasized upon the submission that amendment of the plaint can be allowed by the Court, at any stage, to adjudicate the controversy between the parties. In the light of the same, it is submitted that observations made by the learned trial court, with regard to the application having been filed, at a later stage, as such, is erroneous. Also, it is submitted that the amendment sought, as detailed in the application, is very essential for just decision of the case and to determine the real question of the controversy and it shall not cause injustice or prejudice to the other side.

On the other hand, learned counsel for the respondent has resisted the claim for amendment of the plaint. Rather, it is submitted that under the garb of amendment of the plaint, the plaintiffs, now intend to add on the parties to the lis and furthermore, also want to change the identity of the suit property. Moreover, it has been filed at a belated stage.

The power to allow an amendment is undoubtedly wide and may be appropriately exercised, at any stage, in the interest of justice. All amendments are to be allowed, which are necessary for determining the real question in controversy, provided it does not cause injustice or prejudice to the other side and that, it is essential, to enable the Court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision. Delay in applying for amendment, alone is not a ground to disallow the prayer.

Adverting to the case in hand, it is pertinent to mention that at

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first instance, in the plaint, copy whereof is Annexure P-1, no description, as such, had been given, vis-a-vis, the land of village New Tehna, qua which, relief for possession had been sought. It had been filed against the contesting respondents. Now, under the garb of the application under Order 6 Rule 17 CPC, the plaintiffs intend to add on the parties i.e. Kirna Mahant resident of village Chahal, as well as, Amar Shaheed Baba Jiwan Singh Sewa Vikas Society and furthermore, also to add names of other persons, responsible for their acts, as stated in the proposed amendment.

Not only this, even, it is pertinent to mention that in the plaint the description of the land, qua which, the suit for possession was filed, had not at all been mentioned. Now, through proposed amendment, an attempt is also made to make the mention of Khasra No.274(18-5). However, it is pertinent to mention that by virtue of the proposed amendment, an attempt is made to make an addition of the parties to the suit. If at all, the plaintiffs feel the necessity of making addition of the parties, the same cannot be allowed by way of amendment of the plaint. For this, the plaintiffs are required to file an appropriate application under Order 1 Rule 10 CPC and also thereupon, assert about the role assigned to the persons, who are intended to be brought on record.

Besides the same, introduction of the Khasra number, at this stage, will change the basis of the suit. Nowhere, the aforesaid Khasra number was ever mentioned, either in the headnote of the plaint, or in the pleadings and therefore, at this stage, it cannot be concluded about the suit property, as mentioned in the headnote of the plaint, is bearing the Khasra number, as now intended to be inserted. This definitely shall cause injustice

and prejudice to the other side.

In the light of the aforesaid, no case is made for making sweeping changes, by virtue of proposed amendment, by allowing the application. Thus, the impugned orders warrant no further interference, by virtue of revisional jurisdiction.

Hence, the present revision petition is hereby dismissed.

April 24, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No